

court shall order disposition of such vehicle or aircraft as provided in sections 304f—304m of Title 40, and if such disposition be by public sale, payment from the proceeds thereof, after satisfaction of all such expenses, of any such claim in its order of priority among the claims allowed in such proceedings.

(d) Delivery on bond pending trial.

In any proceeding in court for the forfeiture under the internal-revenue laws of any vehicle or aircraft seized for a violation of the internal-revenue laws relating to liquor, the court shall order delivery thereof to any claimant who shall establish his right to the immediate possession thereof, and shall execute, with one or more sureties approved by the court, and deliver to the court, a bond to the United States for the payment of a sum equal to the appraised value of such vehicle or aircraft. Such bond shall be conditioned to return such vehicle or aircraft at the time of the trial and to pay the difference between the appraised value of such vehicle or aircraft as of the time it shall have been so released on bond and the appraised value thereof as of the time of trial; and conditioned further that, if the vehicle or aircraft be not returned at the time of trial, the bond shall stand in lieu of, and be forfeited in the same manner as, such vehicle or aircraft. Notwithstanding this subsection or any other provisions of law relating to the delivery of possession on bond of vehicles or aircraft sought to be forfeited under the internal-revenue laws, the court may, in its discretion and upon good cause shown by the United States, refuse to order such delivery of possession. (June 25, 1948, ch. 645, § 1, 62 Stat. 840.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 646 (Aug. 27, 1935, ch. 740, § 204, 49 Stat. 878).

A minor change was made in phraseology.

CROSS REFERENCES

Disposition of property forfeited to United States, see sections 304f—304m of Title 40, Public Buildings, Property, and Works.

Remission of vehicles forfeited under customs or navigation laws, see section 1613 of Title 19, Customs Duties.

Remission or mitigation of forfeiture—

Distilled spirits, wines, or malt beverages, see section 2805 of Title 26, Internal Revenue Code.

Under internal revenue laws generally, see section 3726 of Title 26, Internal Revenue Code.

§ 3618. Conveyances carrying liquor.

Any conveyance, whether used by the owner or another in introducing or attempting to introduce intoxicants into the Indian country, or into other places where the introduction is prohibited by treaty or enactment of Congress, shall be subject to seizure, libel, and forfeiture. (June 25, 1948, ch. 645, § 1, 62 Stat. 840.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 247 of title 25, U. S. C., 1940 ed., Indians (Mar. 2, 1917, ch. 146, § 1, 39 Stat. 970).

Words "Automobiles or any other vehicles or" at beginning of section were omitted, and "any conveyance" substituted to remove possible ambiguity as to scope of section.

Words at conclusion of section "provided in section 246 of this title" added nothing and were therefore omitted.

(See also rule 41 of the Federal Rules of Criminal Procedure.)

Minor changes were made in arrangement and phraseology.

CROSS REFERENCES

Indian country defined, see section 1151 of this title.

Introducing intoxicating liquors into Indian country, see section 1154 of this title.

§ 3619. Disposition of conveyances seized for violation of the Indian liquor laws.

The provisions of section 3617 of this title shall apply to any conveyances seized, proceeded against by libel, or forfeited under the provisions of section 3113 or 3618 of this title for having been used in introducing or attempting to introduce intoxicants into the Indian country or into other places where such introduction is prohibited by treaty or enactment of Congress. (Added Oct. 24, 1951, ch. 546, § 2, 65 Stat. 609.)

Chapter 231.—PROBATION

Sec.

3651. Suspension of sentence and probation.

3652. Probation—Rule.

3653. Report of probation officer and arrest of probationer.

3654. Appointment and removal of probation officers.

3655. Duties of probation officers.

3656. Duties of Director of Administrative Office of the United States Courts.

§ 3651. Suspension of sentence and probation.

Upon entering a judgment of conviction of any offense not punishable by death or life imprisonment, any court having jurisdiction to try offenses against the United States, except in the District of Columbia, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution of sentence and place the defendant on probation for such period and upon such terms and conditions as the court deems best.

Probation may be granted whether the offense is punishable by fine or imprisonment or both. If an offense is punishable by both fine and imprisonment, the court may impose a fine and place the defendant on probation as to imprisonment. Probation may be limited to one or more counts or indictments, but, in the absence of express limitation, shall extend to the entire sentence and judgment.

The court may revoke or modify any condition of probation, or may change the period of probation.

The period of probation, together with any extension thereof, shall not exceed five years.

While on probation and among the conditions thereof, the defendant—

May be required to pay a fine in one or several sums; and

May be required to make restitution or reparation to aggrieved parties for actual damages or loss caused by the offense for which conviction was had; and

May be required to provide for the support of any persons, for whose support he is legally responsible.

The defendant's liability for any fine or other punishment imposed as to which probation is

granted, shall be fully discharged by the fulfillment of the terms and conditions of probation. (June 25, 1948, ch. 645, § 1, 62 Stat. 842.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 724 (Mar. 4, 1925, ch. 521, § 1, 43 Stat. 1259).

The phrase "any court having jurisdiction to try offenses against the United States" was substituted for "the courts of the United States" with the approval of the Department of Justice and the Director of the Administrative Office of the United States Courts in order to make clear the legislative intent of Congress that the probation system is available for the rehabilitation of Federal offenders in the Territories and Possessions as well as in the continental United States.

Words "after conviction or after a plea of guilty or nolo contendere for any crime or offense not punishable by death or life imprisonment" were omitted from first sentence as unnecessary.

Words "or the court may impose or fine and may also place the defendant upon probation in the manner aforesaid," were also omitted from the first sentence. The second paragraph of this revised section was substituted to clarify and define accurately the limitation upon suspension of fine or imprisonment, and probation. It reflects exactly the practice followed by Federal courts.

The third and fourth paragraphs of the revised section incorporate the last two sentences from the original first paragraph.

The fifth paragraph of the revised section incorporates the last paragraph of the original section. Words "and as a condition thereof" were inserted after "While on probation". Words "imposed at the time of being placed on probation" were omitted as surplusage.

The last paragraph of the revised section is new. It insures certainty as to extent of defendant's liability upon fulfilling conditions of probation and is also consistent with the words inserted at the beginning of the fifth paragraph.

Minor changes in arrangement and phraseology were made.

CROSS REFERENCES

Expense of transportation to place designated under terms of probation, see section 4283 of this title.

Juvenile delinquents, probation of, see section 5034 of this title.

Narcotic addict, probation conditioned on treatment, see section 259 of Title 42, The Public Health and Welfare.

Probation of juvenile delinquents, see section 5034 of this title.

Transportation and subsistence expense to place designated under terms of probation, see section 4283 of this title.

United States commissioners, application of probation laws to persons tried by commissioner, see section 3401 of this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Presentence investigation before granting probation, see rule 32 (c) following section 3771 of this title.

Probation, see rule 32 (e).

Stay of order of probation pending appeal, see rule 38 (a).

Suspension of sentence, motion to withdraw plea of guilty or nolo contendere, see rule 32 (d).

§ 3652. Probation—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Probation as provided by law, Rule 32 (e).

Presentence investigation, Rule 32 (c).

(June 25, 1948, ch. 645, § 1, 62 Stat. 842.)

§ 3653. Report of probation officer and arrest of probationer.

When directed by the court, the probation officer shall report to the court, with a statement of the conduct of the probationer while on probation. The

court may thereupon discharge the probationer from further supervision and may terminate the proceedings against him, or may extend the probation, as shall seem advisable.

Whenever during the period of his probation, a probationer heretofore or hereafter placed on probation, goes from the district in which he is being supervised to another district, jurisdiction over him may be transferred, in the discretion of the court, from the court for the district from which he goes to the court for the other district, with the concurrence of the latter court. Thereupon the court for the district to which jurisdiction is transferred shall have all power with respect to the probationer that was previously possessed by the court for the district from which the transfer is made, except that the period of probation shall not be changed without the consent of the sentencing court. This process under the same conditions may be repeated whenever during the period of his probation the probationer goes from the district in which he is being supervised to another district.

At any time within the probation period, the probation officer may for cause arrest the probationer wherever found, without a warrant. At any time within the probation period, or within the maximum probation period permitted by section 3651 of this title, the court for the district in which the probationer is being supervised or if he is no longer under supervision, the court for the district in which he was last under supervision, may issue a warrant for his arrest for violation of probation occurring during the probation period. Such warrant may be executed in any district by the probation officer or the United States marshal of the district in which the warrant was issued or of any district in which the probationer is found. If the probationer shall be arrested in any district other than that in which he was last supervised, he shall be returned to the district in which the warrant was issued, unless jurisdiction over him is transferred as above provided to the district in which he is found, and in that case he shall be detained pending further proceedings in such district.

As speedily as possible after arrest the probationer shall be taken before the court for the district having jurisdiction over him. Thereupon the court may revoke the probation and require him to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed. (June 25, 1948, ch. 645, § 1, 62 Stat. 842; May 24, 1949, ch. 139, § 56, 63 Stat. 96.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., § 725 (Mar. 4, 1925, ch. 521, § 2, 43 Stat. 1260; June 16, 1933, ch. 97, 48 Stat. 256).

The section was rewritten with considerable change of phraseology to remove ambiguity in the original enactment under which the serious question was presented whether probation might be revoked for misconduct occurring after the termination of the probation period.

The phrase "within the maximum period for which the defendant might originally have been sentenced" was deleted, and in place thereof was substituted the phrase "or at any time within five years after the expira-

tion of the probation period, for violation of probation occurring during the probation period."

The section as revised removes the possibility that a probationer sentenced on a fifteen count mail fraud indictment would be subject for seventy-five years to the liability of revocation of probation.

The suggestion was made that the word "probationer", wherever it appears, be changed to "defendant". In the revised section, however, the word "defendant" which appeared twice in said section 725 of title 18, U. S. C., 1940 ed., was omitted and the word "probationer" was substituted as the more accurately descriptive term.

The last sentence was substituted for "Thereupon the court may revoke the probation or the suspension of sentence, and may impose any sentence which might originally have been imposed." This clarifies the intent of the section in conformity with the opinion in *Roberts v. United States* (1943, 64 S. Ct. 113, 320 U. S. 264, 88 L. Ed. 41).

AMENDMENTS

1949—Act May 24, 1949 amended section generally.

CROSS REFERENCES

Probation of juvenile delinquents, see section 5034 of this title.

§ 3654. Appointment and removal of probation officers.

Any court having original jurisdiction to try offenses against the United States may appoint one or more suitable persons to serve as probation officers within the jurisdiction and under the direction of the court making such appointment.

All such probation officers shall serve without compensation except that in case it shall appear to the court that the needs of the service require that there should be salaried probation officers, such court may appoint such officers.

Such court may in its discretion remove a probation officer serving in such court.

The appointment of a probation officer shall be in writing and shall be entered on the records of the court, and a copy of the order of appointment shall be delivered to the officer so appointed and a copy sent to the Director of the Administrative Office of the United States Courts.

Whenever such court shall have appointed more than one probation officer, one may be designated chief probation officer and shall direct the work of all probation officers serving in such court. (June 25, 1948, ch. 645, § 1, 62 Stat. 843; Aug. 2, 1949, ch. 383, § 2, 63 Stat. 491.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 726 (Mar. 4, 1925, ch. 521, § 3, 43 Stat. 1260; June 6, 1930, ch. 406, § 1, 46 Stat. 503).

Several minor changes and changes necessary because of later enactments and other developments affecting text matter, were made.

The phrase "any court having original jurisdiction of offenses against the United States" was substituted for "any court of the United States having original jurisdiction of criminal actions" for clarity and to conform with section 3651 of this title. (See reviser's note to said section 3651).

Omitted were the words "The Attorney General shall fix the salaries to be paid probation officers and shall provide for the necessary expenses of probation officers, including clerical service, and expenses for traveling when approved by the court," because of the specific repeal of the 1940 Appropriation Act by section 2 of the act of August 7, 1939, ch. 501, 53 Stat. 1225, relating to Attorney General control and, more important, because Congress

has specifically limited the salary of probation and chief probation officers in the annual Legislative and Judiciary Appropriation Acts, to wit, not less than \$1,800 nor more than \$3,600 per annum. (See, for example, Legislative and Judiciary Appropriation Act of 1943, act of June 28, 1943, ch. 173, title II, § 201, 57 Stat. 242.) The same is true with regard to transportation expenses, etc.; see, *ibid.*, 1943 Appropriation Act. The scale of salaries is now fixed by the Director within the limits of the Appropriation Act. Also omitted from the section were the words "Attorney General" after "a copy sent to" and substituted "Director of the Administrative Office of the United States Courts" because under the authority of the creating act of August 7, 1939, 53 Stat. 1225, the Director established a Probation Service which exercises general supervision of accounts and practices of the Federal probation officers, subject to the primary control by the respective district courts which they serve. (See Annual Report of Director of the Administrative Office of the United States Courts, September 1943, pp. 17—20. See also Report of Director for 1941, pp. 33, 34.)

The word "court" was substituted in several places for "judge or judges" and "court or courts" without change of meaning.

AMENDMENTS

1949—Act Aug. 2, 1949, amended section by making it applicable to the United States District Court for the District of Columbia.

EFFECTIVE DATE

Section 10 of act Aug. 2, 1949 provided that the amendment of this section by section 2 of said act Aug. 2, 1949, should be effective as of July 1, 1949.

CROSS REFERENCES

Administrative Office of United States Courts, see section 601 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 3655. Duties of probation officers.

The probation officer shall furnish to each probationer under his supervision a written statement of the conditions of probation and shall instruct him regarding the same.

He shall keep informed concerning the conduct and condition of each probationer under his supervision and shall report thereon to the court placing such person on probation.

He shall use all suitable methods, not inconsistent with the conditions imposed by the court, to aid probationers and to bring about improvements in their conduct and condition.

He shall keep records of his work; shall keep accurate and complete accounts of all moneys collected from persons under his supervision; shall give receipts therefor, and shall make at least monthly returns thereof; shall make such reports to the Director of the Administrative Office of the United States Courts as he may at any time require; and shall perform such other duties as the court may direct.

Each probation officer shall perform such duties with respect to persons on parole as the Attorney General shall request. (June 25, 1948, ch. 645, § 1, 62 Stat. 843.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 727 (Mar. 4, 1925, ch. 521, § 4, 43 Stat. 1260; June 6, 1930, ch. 406, § 1, 46 Stat. 503).

A necessary substitution and omission of superseded text matter was made in this section. The first sentence of section 727 of title 18, U. S. C., 1940 ed., making it the duty of the probation officer to investigate and report con-

cerning any case referred to him by the court was omitted as superseded by Rule 32 (c) (1) of the Federal Rules of Criminal Procedure which require presentence investigation in every case unless the court otherwise directs.

The words "Director of the Administrative Office of the United States Courts" were substituted for "Attorney General" where it first appeared. In view of the fact that the Administrative Office now exercises general supervision of the accounts and practices, reports, etc., of probation officers since the enactment of act of August 7, 1939, the Attorney General's previous authority is therefore superseded. (See also reviser's note under section 3654 of this title.)

The reason why no similar substitution of language was made in the next to the last sentence where the words "Attorney General" are mentioned is due to the fact that uniformly since 1939, Congress in the annual legislative and judiciary appropriation acts stipulates that such probation officers shall be under a duty to observe the "official orders of the Attorney General with respect to the supervision and furnishing of information of any prisoner released conditionally on parole." The parole supervision is under the Attorney General while probation is under the Director of the Administrative Office.

Omitted the last sentence reading "A probation officer shall have the power of arrest that is now exercised by a deputy marshal." as superseded by section 3653 of this title.

Other changes of phraseology were made without change of substance.

§ 3656. Duties of Director of Administrative Office of the United States Courts.

The Director of the Administrative Office of the United States Courts, or his authorized agent, shall investigate the work of the probation officers and make recommendations concerning the same to the respective judges and shall have access to the records of all probation officers.

He shall collect for publication statistical and other information concerning the work of the probation officers.

He shall prescribe record forms and statistics to be kept by the probation officers and shall formulate general rules for the proper conduct of the probation work.

He shall endeavor by all suitable means to promote the efficient administration of the probation system and the enforcement of the probation laws in all United States courts.

He shall, under the supervision and direction of the Judicial Conference of the United States, fix the salaries of probation officers and shall provide for their necessary expenses including clerical service and travel expenses.

He shall incorporate in his annual report a statement concerning the operation of the probation system in such courts. (June 25, 1948, ch. 645, § 1, 62 Stat. 843; May 24, 1949, ch. 139, § 57, 63 Stat. 97.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 728 (Mar. 4, 1925, ch. 521, § 4 (a), as added June 6, 1930, ch. 406, § 2, 46 Stat. 503).

The only change made in this section was the substitution of the "Director of the Administrative Office of the United States Courts" for "Attorney General". (See reviser's note under section 3654 of this title.)

AMENDMENTS

1949—Act May 24, 1949, amended fifth par. of section by inserting "and direction" following "supervision".

INCREASE IN COMPENSATION RATES

Increase in compensation rates fixed under this section, see note under section 603 of Title 28, Judiciary and Judicial Procedure.

INITIAL ADJUSTMENT OF 1951 PAY INCREASES

Initial adjustment of rates of pay of employees affected by act Oct. 24, 1951, see note under section 1113 of Title 5, Executive Departments and Government Officers and Employees.

Chapter 233.—CONTEMPTS

Sec.

3691. Jury trial of criminal contempts.

3692. Jury trial for contempt in labor dispute cases.

3693. Summary disposition or jury trial; notice—Rule.

§ 3691. Jury trial of criminal contempts.

Whenever a contempt charged shall consist in willful disobedience of any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any Act of Congress, or under the laws of any state in which it was done or omitted, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in other criminal cases.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 844.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 386, 389 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, §§ 21, 24, 38 Stat. 738, 739).

The first paragraph of this section is completely rewritten from section 386 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, omitting everything covered and superseded by rules 23 and 42 of the Federal Rules of Criminal Procedure.

The second paragraph of this section is derived from section 389 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, omitting directions as to the trial of other contempts which are now covered by rule 42 of the Federal Rules of Criminal Procedure.

Minor changes were made in phraseology.

CROSS REFERENCES

Criminal contempts—

Constituting offenses, see section 402 of this title.

Procedure against witnesses before international tribunals, see section 270f of Title 22, Foreign Relations and Intercourse.

Limitations, see section 3285 of this title.

Power to punish for contempt generally, see section 401 of this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Jury trial for criminal contempt where statutes so provide, see rule 42 (b) following section 3771 of this title.

Statutory provisions defining criminal contempt, see Advisory Committee Notes under rule 42 following section 3771 of this title.

§ 3692. Jury trial for contempt in labor dispute cases.

In all cases of contempt arising under the laws of the United States governing the issuance of in-